

DETERMINATION AND STATEMENT OF REASONS

SOUTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	28 November 2022
DATE OF PANEL DECISION	25 November 2022
DATE OF PANEL MEETING	19 October 2022
PANEL MEMBERS	Clare Brown (Acting Chair), Renata Brooks, Chris Wilson, Gordon Lindley, Tony Donoghue
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 12 October 2022.

MATTER DETERMINED

PPSSTH-145 – COOTAMUNDRA-GUNDAGAI – DA2022/027 – 101-173 Cowcumbra Street Cootamundra - Solar Farm (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspection listed at item 8 in Schedule 1.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council Assessment Report subject to amendments to conditions and new conditions as outlined below and correction of errors in the draft Council Notice of Determination to address the matters as outlined below.

A. Notice of Determination

1. The description of the proposal should be expanded to include the demolition of the existing dwelling house and consolidation of the allotments forming the site.
2. The address should exclude the Council owned land Lot 1 in DP1084448 as this site no longer has work proposed on it.
3. Conditions to be renumbered.

B. Conditions

The Development Application was approved subject to the amendments to conditions in the Council Assessment Report to address the following matters:

1. Condition A1 – to be amended to include reference to all relevant documents including the Original Ecological Fauna and Flora assessment (Utilacor 26 January 2022) and the OzArk addendum letter.
2. New condition to be inserted in the following terms:

Separate Approval for Grid connection

This development consent does not approve the connection to the grid over Lot 1 in DP 1084448, such connection to be the subject of a separate application and approval.

3. New condition to be inserted requiring the preparation of a landscape plan to the satisfaction of Council to reflect the intent of the draft Vegetation Management plan in the following terms

Landscape Plan

A revised site landscape plan to be prepared and submitted to Council for approval prior to the commencement of any works on site and is to accompany the first construction certificate. The landscape plan to indicate:

- a) species type to be planted,
- b) size at time of planting, noting they should be larger than tube stock
- c) the grasses to be planted under the solar arrays, and
- d) the trees to be retained on site with protection measures and the location of the APZ.

4. A new condition is to be included as follows:

Operational Period

The term of the approval for the operation of the solar farm is for a maximum of 30 years and at the cessation of the period the site is to be rehabilitated.

5. Condition B4 to be reviewed or delete if the provisions are elsewhere addressed in the conditions.
6. Review of layout, format and headings of conditions generally
7. Insert a new condition relating to the final array layout as follows:

Final Array Layout

Prior to the grant of a construction certificate and any works occurring on site a final array layout plan together with a final stormwater plan and erosion and sediment control plans reflecting the landscape and final array plans are to be prepared and submitted to Council General Manager for approval. The development area for the final array layout is to reflect and be no larger than the extent of development area as shown in the Array Layout Plan Revision A identified in condition A1.

8. In relation to proposed condition B22 Council to clarify in the condition if a copy of the flood report is to be submitted to Council.
9. A new condition requiring the preparation of a construction site management plan is to be inserted as follows:

Construction Site Management Plan

Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Site Management Plan (incorporating the Final Array Layout, Final Stormwater Plan, Sediment and Erosion Control and Construction Traffic Management Plan). The plan shall be submitted to, and approved by Council, to the satisfaction of the General Manager or delegate. The plan shall address, but not limited to:

- (a) Location of parking, loading/unloading areas, storage areas, and site compound.
- (b) Tracking of mud and dust management.
- (c) Details of temporary site fencing.
- (d) Waste management and storage measures, including waste and landfill minimisation strategies.
- (e) Bushfire management.
- (f) Soil and Water Management including any required earthworks, stabilising batters where required and protection of waterways.
- (g) Security Management including details of relevant project manager and/or site foreman contact details.
- (h) Complaints handling and record keeping.
- (i) Construction noise and vibration management.
- (j) Incorporation of any other approved management plans, such as the Array Layout, Stormwater Plan, Sediment and Erosion Control Plan, and Construction Traffic Management Plan.

The approved plan shall be complied with at all times.

10. A new condition is to be inserted that requires the preparation of a waste management plan:

Waste Management Plan

Prior to the issue of a Construction Certificate, the applicant must prepare a Waste Management Plan for the construction, operational and decommissioning phase of the development approved under this development consent. The Waste Management Plan is to be submitted to Council for approval.

11. Amend Condition C4 by replacing the reference to 'tree' in last sentence of the first paragraph with 'walls'.
12. Condition C9 references Management Plan recommendations – not sure there are any so this should be reviewed.
13. A new condition to be inserted in the following terms:

Operational Environmental Management Plan

An Operational Environmental Management Plan is to be prepared and submitted for Council's approval prior to the commencement of operation of the solar farm. The Operational Environmental Management Plan is to include:

- a) operational requirements of the Vegetation Management Plan and Landscape Plan (such as ground cover management and maintenance of screening vegetation),
 - b) a complaints protocol including a requirement to investigate and respond to complaints about glare to ensure that impacts on road and rail user safety and residential amenity are minimised by adjustments to tracking or other appropriate measures, and
 - c) other management measures set out in the statement of environmental effects nominated in condition 1 of this development consent.
14. Amend Condition E11 to also require extinguishment of the 20.115m easement to the benefit of Council. The amended condition to read as follows:

Consolidation of Lots

Prior to the issue of an Occupation Certificate, the person having the benefit of this consent shall make all necessary arrangements and carry out the necessary legal actions to consolidate Lots 13, 14, 177 and 178 DP753601 and Lot 1 DP783927 into one lot. This includes to ensure that the 20.115m wide easement, for transmission lines to the benefit of Council, on Lot 14 DP753601 has been extinguished.

15. Amend Condition G1 to provide a time period for decommissioning to commence and to allow the land to be decommissioned to be suitable for industrial use or agricultural use, and to expand the objective to include "and to reflect contemporary best practice approaches to decommissioning". The preamble of the condition to be amended to read as follows:

Decommissioning Management Plan

The solar energy system shall be decommissioned within 12 months of terminating operations.

A Decommissioning Plan must be provided to Council (or relevant approval authority) generally consistent with the Decommissioning Plan (as required by condition C3) for review and approval no later than 12 months prior to the proposed cessation of operations. The objective of this is to restore the land to its pre-existing state suitable for industrial or agricultural use and to reflect contemporary best practice approaches to decommissioning. It must include, but not be limited to, the following:

16. New conditions to be added:

Dangerous Goods Management

The operator of the solar farm during the construction, operation and decommissioning of the solar farm is to:

- a) Ensure that the quantities of dangerous goods stored and handled at the site must be below the threshold quantities listed in the Department of Planning's Hazardous and Offensive Development Application Guidelines complying with the provisions of State environmental planning policy (Resilience and Hazards) 2021 at all times.
- b) Ensure that all dangerous goods, as defined by the Australian Dangerous Goods Code, are stored and handled strictly in accordance with all relevant Australian Standards.



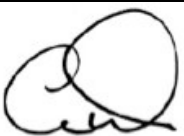


Reason: To ensure the quantities of dangerous goods stored onsite remain below appropriate thresholds and are appropriately stored and managed.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- a) Visual impacts
- b) Increased stormwater runoff/flooding impacts
- c) Devaluation of property
- d) Requirement for vegetative screening
- e) Acoustic impact
- f) Glare and heat from solar panels
- g) Dust during construction
- h) Impact on flora and fauna along Muttama Creek

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 Clare Brown (Acting Chair)	 Renata Brooks
 Chris Wilson	 Gordon Lindley
 Tony Donoghue	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-145 – COOTAMUNDRA-GUNDAGAI – DA2022/027
2	PROPOSED DEVELOPMENT	Solar Farm
3	STREET ADDRESS	101-173 Cowcumbra Street Cootamundra
4	APPLICANT/OWNER	Cootamundra Export Co. Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Planning System) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Cootamundra Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Cootamundra Development Control Plan 2013 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 10 October 2022 Written submissions during public exhibition: 4 Total number of unique submissions received by way of objection: 3
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 27 April 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Clare Brown (Acting Chair), Renata Brooks, Chris Wilson, Gordon Lindley, Tony Donoghue <u>Council assessment staff</u>: Craig Perrin, Tanya Cullen <u>DPE</u>: Sung Pak Site inspection: 27 April 2002 <ul style="list-style-type: none"> <u>Panel members</u>: Clare Brown (Acting Chair), Renata Brooks, Chris Wilson, Gordon Lindley, Tony Donoghue <u>Council assessment staff</u>: Craig Perrin, Tanya Cullen <u>DPE</u>: Sung Pak Final briefing to discuss council's recommendation: 19 October 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Clare Brown (Acting Chair), Renata Brooks, Chris Wilson, Gordon Lindley, Tony Donoghue <u>Council assessment staff</u>: Craig Perrin <u>Applicant representatives</u>: Tom Harrison, Mark Raymond, Byron Serjeantson <u>DPE</u>: Sung Pak
9	COUNCIL RECOMMENDATION	Approval

10	DRAFT CONDITIONS	Attached to the Council Assessment Report as amended by supplementary conditions included in the Statement of Reasons
----	------------------	---